

## HEARING RESULT

---

**Distribution:** Chief Executive  
Group Integrity Services, Group Racing  
Group Racing Development  
Credit Controller  
ARB, ATA, VJA, TVN  
Office of Racing  
T Moxon – National Drug Register  
Racing Press

**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 11 August 2015

**SUBJECT:** **HEARING RESULT – TANIA HYETT**

---

**Panel** Judge Russell Lewis (Executive Member), Mr Chris Fox,  
Mr Jeremy Rosenthal.

**Appearances** Mr Jason Murakami of Levitt Robinson Solicitors appeared on behalf of  
Ms Hyett.

Mr Tony Burns, instructed by Mr Tim Robinson, appeared as Counsel for  
the stewards.

**Charge** Breach of AR 175B(2)

*Any person employed by a trainer in connection with the training or care  
of racehorses must not lay a horse under the control of the trainer for  
whom he is or was employed, while so employed and for a period of 21  
days after ceasing to be so.*

*(7) For the purposes of this rule "lay" means the offering or placing of a  
bet on a horse (a) to lose a race; or (b) to be beaten by any other runner  
or runners; or (c) to be beaten by any margin or range of margins; or (d)  
that a horse will not be placed in a race in accordance with the  
provisions of AR 157.*

**Plea** Mr Murakami made a 'no case' submission on behalf of Ms Hyett.

**Decision** The Board does not find the charge proved.

**TRANSCRIPT OF  
PROCEEDINGS**

---

**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Executive Member  
MR C. FOX  
MR J. ROSENTHAL**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**RE: TANIA HYETT**

**MELBOURNE**

**TUESDAY, 11 AUGUST 2015**

MR A.G. BURNS, assisted by MR T. ROBINSON, appeared on behalf of  
the RVL Stewards

MR J. MURAKAMI (instructed by Levitt Robinson Solicitors) appeared on  
behalf of Ms T. Hyett

EXECUTIVE MEMBER: In this matter, the decision of the Board will be given by Mr Fox.

MR FOX: This matter concerns charges against Ms Tania Hyett under AR 175B and AR 175C of the rules. The Board is comfortably satisfied that Ms Hyett laid horses trained by Robert Smerdon to lose during the period 20 December 2014 to 18 April 2015 or permitted other persons to lay such horses on her behalf. The Board is also comfortably satisfied that Ms Hyett completed the stablehand renewal form for the 2014-2015 year, that this form was signed by Mr Smerdon, and that the form was processed by Racing Victoria, such that she was licensed as a stablehand for that year.

The heart of this matter is whether the provisions of AR 175B and 175C apply to Ms Hyett in the circumstances as they have been put to the Board. This in turn is dependent in substantial part on Local Rule 66A which is as follows:

*For the purposes of AR 175B(2) a person employed by a trainer in connection with the training or care of racehorses includes any person registered in accordance with LR 39B and any reference to employment includes a reference to such registration.*

The words of principal importance here are "registered in accordance with LR 39B". LR 39B is concerned with registration of stable employees. LR 39B(1) is as follows, and this applies to applications before 1 August of a given year, which is the present case:

*A person holding a trainer licence or a Racing Employee Contractor licence from Racing Victoria may, on or before the first day of August of each year, apply to Racing Victoria to register a person to be employed by him or her in connection with the training, management or care of racehorses.*

LR 39B(2A) sets out the categories of persons to be employed by a trainer as follows:

*An application for the registration of a person to be employed by a trainer under LR 39B may be made in the following categories:*

*(a) Stablehand; (b) Foreperson; (c) Assistant Trainer; (d) Racing Manager; or (e) any other category as Racing Victoria allows from time to time.*

Each of those are defined terms under the rules. The relevant defined term for present purposes is "stablehand". That is defined in Rule 1 to mean:

*(a) any person employed by a trainer in connection with the training or care of racehorses or (b) a stable employee referred to in LR 39B(2A).*

As mentioned, the Board is comfortably satisfied that an application form to renew Ms Hyett's registration as a stablehand was completed and lodged with

Racing Victoria and processed. However, the Board is not comfortably satisfied that Ms Hyett was employed by Mr Smerdon as opposed to Aquanita Management or that the duties performed by Ms Hyett were those of a stablehand within the meaning of the rules.

The Stewards argue that LR 66A is a deeming provision; that is, once signed, it does not matter if the form is wrong or if the particulars that are completed in the form are in any respect inaccurate. That would be inaccuracies in relation to the category of stable employee or in relation to the employment relationship.

In the Board's opinion, it is difficult to see how LR 66A has this effect. It does not use the language of "deeming" and that is to be compared with other rules that exist, for example, AR 177B(5), which expressly refers to a deeming operation. LR 66A, rather, only refers to a person registered in accordance with LR 39B.

In the Board's opinion, it is not satisfied that Ms Hyett meets this description. She was not someone who was or was proposed to be employed by a trainer, that is, Mr Smerdon, in connection with the training, management or care of racehorses or, more specifically, a person employed by a trainer in connection with the training or care of racehorses within the meaning of "stablehand".

LR 39A and LR 39B also do not contain, in their own terms, deeming provisions. It is also significant that LR 39C tends against such a deeming power being read into LR 39A and 39B. Perhaps, in truth, if the paperwork was in order, this was more a case of LR 39C rather than an LR 39A and 39B case.

It follows that the Board, on the particular facts that have been presented to it, is not satisfied that the charges have been proved.

EXECUTIVE MEMBER: I would just add this: the Board, having arrived at its decision, which is based on its interpretation of the rules, wishes to make it quite clear that it in no way condones the conduct of the kind which has been demonstrated in this case. The Board strongly suggests that Stewards consider an amendment to the rules to cover the factual situation which has arisen in this case.

---